

**REMARKS**

Applicants thank the Examiner for the through consideration of the present application. Claims 1, 3-6 and 8-11 are currently under consideration. Claim 7 has been withdrawn from consideration. The Examiner is respectfully requested to reconsider his rejection in view of the Amendments and Remarks as set forth below.

**Rejection under 35 U.S.C §103**

Claims 1, 3, 5, 6, 8, 9 and 10 stand rejected under 35 U.S.C §103 as being obvious over Stone (U.S. Patent 5,314,114), Stone (U.S. Patent 3,963,173), Giblin et al. (U.S. Patent 5,320,279) and Pritchard et al. (GB 2 264 287). This rejection is respectfully traversed.

The Examiner relies on Stone '114 to shown a paper container, the main body, lid, inner carton part and severance guide. The Examiner relies on Stone '173 to show a container with an inner carton part having a cutout part completely removed from the front board. The Examiner believes it would be obvious to provide Stone '114 with the lid and cutout structure as taught in Stone '173. The Examiner cites Giblin et al. to show a container with an inner carton part that is separate from the container. The Examiner feels that it would have been obvious to modify the container

formed by Stone '114 and Stone '173 with a container part as taught by Giblin et al.

It should also be noted that the Applicants have now amended claim 1 to specifically state that the inner carton part is separate from the container main body as the Examiner has previously interpreted.

The Examiner has now cited the Pritchard et al. reference to address the new limitation that the upper half of the front board is above the severance guideline. In particular, the Examiner states that Pritchard et al. shows that it was known to have a deep opening and severance guideline position such that the upper half of the front board is above the severance guideline. The Examiner further states that it would have been obvious to provide the combined container of Stone '114, Stone '173 and Giblin et al. with the severance guideline positions such that the upper half of the front board is above the severance guideline. Applicants submit that the Examiner has not properly interpreted the Pritchard et al. reference and further it would not be obvious to make such a modification.

The language presented in claim 1 states that the upper half of the front board in the carton part is above the severance guideline. The severance guideline is defined in the same paragraph as extending from opposite ends of the connecting ridge

line. According to figure 3 of the present application, it is seen that the tear strip has a finite vertical dimension. According to the severance guideline described in claim 1, only the top edge of the tear strip can be considered the severance guideline since it is described as extending from the opposite ends of the connecting ridge line. This language is correct in describing the present invention, as seen in figures 1 and 3. Simply by placing a ruler on figure 3, the total height of the container is roughly  $1\frac{1}{4}$  inch. The vertical height of the lid is roughly 1 inch, the vertical height of the tear strip in the front is roughly  $\frac{1}{4}$  inch and the part of the front of the box below the tear strip is roughly  $\frac{1}{2}$  inch. Figure 1 is drawn to the same scale and shows that the front edge of the inner box which is exposed is  $1\frac{1}{4}$  inch. Since the tear strip in figure 3 is shown to be about  $\frac{1}{4}$  inch, it is clear that the front board of the inner carton part is roughly 1 inch above the severance guideline. Since there is no more that  $\frac{1}{4}$  inch below the severance guideline, and an inch above, more than half of the front board is above the severance guide line.

However, in the Pritchard et al. reference, a similar procedure applied to figure 3 indicates that the vertical dimension of the lid is  $\frac{3}{4}$  inch, the tear strip is  $\frac{5}{16}$  inch, and the front surface of the container below the tear strip is approx.  $\frac{7}{8}$  inch. Accordingly, Applicants submit that the device shown by Pritchard

et al. does not show the upper half of the front board of the inner carton being above the severance guideline. While it is true, judging from figures 1 and 2 that the upper half of the front board of the inner carton part is above the bottom edge of the tear strip, it is not above the severance guideline. For these reasons, Applicants submit that the Examiner did not correctly interpret the Pritchard et al. reference and that accordingly the combination of the various references do not render claim 1 obvious.

Furthermore, even if the Examiner was correct in the teachings of Pritchard et al. reference, Applicants submit that it would not be obvious to combine the four references together. The Examiner is not providing any motivation for one skilled in the art to make the modifications suggested. While Applicants admit that it would be obvious to make some changes in the shape of the box based on other teachings, the complete reworking of the Stone '114 box to add features from three different references is not considered to be obvious without some motivation for doing so. Furthermore, it is not completely clear that all of these teachings could be made based on the construction of the boxes as shown. Thus, for the changes to be obvious and even possible, one skilled in the art needs to not only look at the end shape of the box, but how it is being formed from a cardboard blank. Thus, even if the change to the shape of the box could be theoretically possible, it may not be

possible given the size and shape and construction of the blank from which the box is folded. Accordingly, Applicants submit that absent some motivation, it would not be obvious to make the combination of references as suggested by the Examiner.

Claim 4 stands rejected under 35 U.S.C. §103 as being obvious over the same four way combination of references and further in view of Wood et al. (U.S. Patent 5,985,772). The Examiner relies on Wood et al. to show a particular material used for the container. Applicants submit that even if the Wood et al. reference does teach this feature, this claim would be allowable based on its dependency from allowable claim 1.

Applicants have also added new claim 11 which depends from claim 1 and is allowable based on its dependency therefrom. Claim 11 further points out that the inner carton part has a bottom board.

#### **CONCLUSION**

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination. In view of this, consideration of the rejection and allowance of all the claims are respectively requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully

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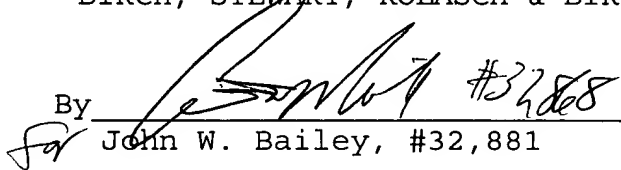
requested to contact Robert F. Gnuse (Reg. No. 27,295) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.


If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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